

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RENE F. FERNANDEZ,
#1068947,

Plaintiff,

vs.

ERNESTO CASTALDO, *et al.*,

Defendants.

2:13-cv-1706-LDG-VCF

ORDER

This prisoner civil rights action comes before the Court for a status check and further on plaintiff's motion (#5) to enforce compliance with court order.

On November 7, 2013, the Court granted plaintiff's pauper application subject to the provisions of the Prison Litigation Reform Act (PLRA). The Court, *inter alia*, directed plaintiff to pay an initial partial filing fee of \$25.24 within thirty days of the order. Plaintiff was required to send a "brass slip" to inmate services to authorize the payment. The order stated: "Failure to do so may result in dismissal of this action without further advance notice."

Recent review of the Court's accounting records reflects that the \$25.24 initial partial filing fee has not been paid.

In the pending motion, plaintiff requests that the Court order the corrections department to pay the \$25.24 initial partial filing fee from his inmate savings account, as opposed to his inmate trust account. Plaintiff is mistaken regarding his payment obligation. Funds in an inmate savings account are not available for payment of court filing fees. When plaintiff filed this action, there were sufficient funds in his inmate trust account to pay the initial partial filing fee. Plaintiff was on notice when he

1 submitted the financial certificate¹ with his pauper application both that he had sufficient funds
2 (\$126.21) in his inmate trust account to pay the required initial partial filing fee of \$25.24 and that he
3 would be required to pay an initial partial filing fee in that specific amount. If plaintiff instead depleted
4 the funds in his inmate trust account in the interim, the action is subject to dismissal for failure to satisfy
5 the fee payment requirements of the PLRA.

6 If plaintiff does not pay the \$25.24 initial partial filing fee within thirty days of entry of this
7 order, the action will be dismissed without further advance notice.

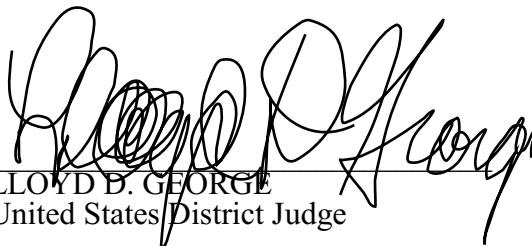
8 IT IS ORDERED that plaintiff's motion (#5) to enforce compliance with court order is
9 DENIED.

10 IT FURTHER IS ORDERED that plaintiff shall have thirty **(30) days** from entry of this order
11 within which to have the \$25.24 initial partial filing fee sent to the Clerk of Court. If the initial partial
12 filing fee is not timely paid, the action will be dismissed. This is the last advance notice that plaintiff
13 will receive prior to dismissal.

14 The Clerk further shall SEND: (a) plaintiff two copies of this order and the prior order (#4); and
15 (b) another copy of the prior order (#4) along with a copy of this order to the Chief of Inmate Services
16 at the address in the prior order. The Clerk further shall note, as in the docket entry for the prior order,
17 said transmittals in the docket entry for this order.

18 DATED: this 11 day of February, 2014.

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LLOYD B. GEORGE
United States District Judge

¹See #1, at electronic docketing page 4 (executed financial certificate).